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November 2, 2000

RECEIVED

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

**VIA HAND DELIVERY**

Magalie Roman Salas, Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C. 20554

Re: **Ex Parte Notification - CC Docket No. 00-0176**  
**OnSite Access Local, LLC**

00-176/

Dear Ms. Salas:

On behalf of OnSite Access Local, LLC ("OnSite"), this letter is to notify the FCC of a meeting with Commission staff that may be construed as an *ex parte* presentation under Section 1.1206 of the Commission's rules, 47 C.F.R. § 1.1206, since issues under consideration in the above-referenced docket were discussed.<sup>1</sup>

On November 1, 2000, Russell M. Blau and Tony S. Lee of this firm, and Leonard G. Kriss, John Reese, and Thomas Gambino of OnSite, met with Frank Lamancusa, Deputy Chief of the Market Disputes Resolution Division, Enforcement Bureau. The purpose of the meeting was to discuss in further detail a letter sent to the Commission on October 12, 2000, concerning anti-competitive behavior exhibited by Verizon in various markets, including Massachusetts. A copy of the letter is attached hereto as Exhibit A. We discussed with Mr. Lamancusa the delays OnSite has encountered in ordering circuits from Verizon to provide service to OnSite customers, and the problems it has experienced in requesting repairs to non-functioning lines. We advised the Commission that OnSite was seeking FCC assistance to end Verizon's anti-competitive conduct, and that we would be requesting mediation pursuant to the Commission's Accelerated Docket procedures.

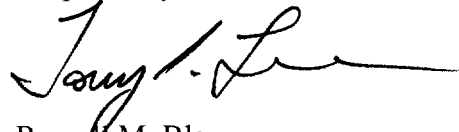
<sup>1</sup> The Commission has determined that the above-referenced docket, *Application of Verizon New England Inc., Bell Atlantic Communications, Inc. (d/b/a Verizon Long Distance), NYNEX Long Distance Company (d/b/a Verizon Enterprise Solutions), and Verizon Global Networks Inc. for Authorization to Provide In-Region, InterLATA Services in Massachusetts*, CC Docket No. 00-176, should be classified as a "permit-but-disclose" proceeding. See *Public Notice*, DA 00-2159 (rel. September 22, 2000).

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Magalie Roman Salas, Secretary  
November 2, 2000  
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Please date-stamp the extra copy of this filing, and return it to us in the enclosed envelope. Should you have any questions with respect to this matter, please do not hesitate to contact the undersigned at (202) 424-7500.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Tony S. Lee", with a long horizontal flourish extending to the right.

Russell M. Blau  
Tony S. Lee

Counsel for OnSite Access Local, LLC

cc: Leonard G. Kriss, Esq.

**EXHIBIT A**

October 12, 2000 Letter to FCC

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October 12, 2000

## **VIA COURIER**

Frank G. Lamancusa, Deputy Chief  
Market Disputes Resolution Division  
Enforcement Bureau  
Federal Communications Commission  
445 - 12th Street, S.W.  
Washington, DC 20554

**Re:    Mediation to Resolve Verizon's Anti-Competitive Conduct  
Towards OnSite Access Local, LLC**

Dear Mr. Lamancusa:

On behalf of OnSite Access Local, LLC ("OnSite"), we are writing to seek the FCC's assistance in resolving extreme difficulties OnSite has encountered in ordering telecommunications services from Verizon - New York, Inc. ("Verizon"). OnSite is a competitive local exchange carrier ("CLEC") authorized to provide service in 19 states, including New York. OnSite's business plan focuses on furnishing resold and facilities-based telecommunications services to commercial customers located in multi-tenant office buildings. The ability to provide reliable telecommunications services quickly to a prospective customer is crucial to a CLEC's ability to capture market share. In order to effectively compete in the local exchange market primarily dominated by Verizon, OnSite requires reliable and timely access to Verizon's network and services. However, a continuing series of problems over a period of months have severely limited OnSite's ability to fulfil customer orders, and caused OnSite great concern regarding Verizon's commitment to open its network to competitors.

OnSite has attempted to order tariffed services, including but not limited to interstate special access services, from Verizon on numerous occasions, and has encountered a wide variety of obstacles that have hindered OnSite's ability to provide telecommunications services to its customers. Some of the more egregious anti-competitive behavior exhibited by Verizon is detailed below:

### Firm Order Commitments

After placing an order for services with Verizon, OnSite receives a firm order commitment ("FOC") indicating the date by which services ordered will be available. OnSite commits significant capital to construct the telecommunications infrastructure in office buildings, and relies upon Verizon's FOC dates to make service commitments to customers and allocate resources to service and install equipment. As a result, the FOC date OnSite receives from Verizon is critical to OnSite's business planning and the businesses of its customers. Each day of delay costs OnSite in terms of the cost of capital, missed revenue opportunities, minimum level commitments, and customer contract obligations. Unfortunately, in OnSite's experience, Verizon's "firm order commitment" is anything but that. Verizon has engaged in a disturbing and repeated pattern of delay and deception in order to obscure exactly when a FOC will be filled. Verizon will often claim that an order cannot be found, arbitrarily move the FOC date, or outright fail to satisfy its obligation without explanation.

Verizon has also engaged in questionable record keeping practices that lead it to provide misleading (at best) reports of its compliance history for meeting FOC dates. Specifically, OnSite has encountered situations where Verizon has reset a FOC date to a later date for no apparent reason. Verizon then proceeds to record this event as a cancellation requested by OnSite, rather than as a delay by Verizon. This untenable state of affairs leaves CLECs like OnSite unable to provide timely telecommunication services to its subscribers, while allowing Verizon to be perceived as having a satisfactory track record for processing orders.

### Unwillingness to Accomplish Repairs

One of the most difficult problems encountered by the company is Verizon's reluctance to address and repair telecommunications lines in a timely manner. Such requests are generally met with excuses, delays, or indifference. Furthermore, Verizon has been either unwilling or unable to properly diagnose error-prone lines, leading to additional delays in providing service to OnSite's subscribers. Verizon will often claim that the problems are not in its own network, but rather, are caused by OnSite's equipment.

OnSite's recent experience in having repairs performed on DS-3 lines servicing buildings in New York City is indicative of Verizon's approach towards repairing defective facilities. After many calls and exchanges of correspondence, including the filing of a complaint with the New York Public Service Commission, OnSite determined that the underlying causes of the service disruptions did indeed lie with Verizon. However, in the process of resolving OnSite's problems, Verizon (1) refused to perform necessary tests to properly diagnose the problem; (2) did not send personnel necessary to repair the lines; (3) did not respond to OnSite's repair requests in a timely manner; and (4) refused to provide explanations for the service outages so that OnSite could ensure that future

Frank Lamancusa, Deputy Chief

October 12, 2000

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disruptions would not occur. These events led to delays of several weeks in OnSite's provision of service to target buildings.

#### Request for Mediation

In order to remedy its ongoing service problems, OnSite has contacted appropriate Verizon personnel and management, and has requested technical assistance where necessary. The company has fully cooperated with Verizon to determine the source of service disruptions, and has performed exhaustive testing and monitoring to ensure that OnSite's equipment is not a contributing factor in its technical difficulties. OnSite has even resorted to filing a complaint with the appropriate state regulatory agency in order to compel Verizon to satisfy its service obligations. However, Verizon is still unwilling to provide OnSite with an appropriate level of service necessary for OnSite to bring reliable, innovative, and competitive telecommunications to its subscribers.

Accordingly, OnSite requests that the FCC assist it by mediating a resolution of these issues with Verizon. OnSite is making this request because it believes that a negotiated solution that provides it with a strong assurance of improved future performance by Verizon is more important to its business than seeking restitution for past failures. If a negotiated resolution cannot be achieved, however, OnSite reserves the right to file a formal complaint with the FCC and may wish to seek Accelerated Docket treatment if that becomes necessary.

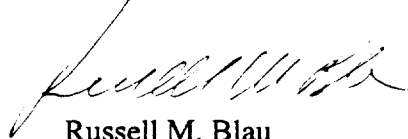
OnSite believes that mediation would allow the parties to explore various approaches to resolve the above issues. OnSite's objective is for Verizon to commit the appropriate resources to address the provisioning of services critical to OnSite, and to establish procedures for resolving such issues. Moreover, OnSite seeks an agreement that includes self enforcing performance measures, with financial incentives for Verizon to excel in its performance, hopefully obviating the need for further Commission or state agency intervention.

OnSite is eager to provide competitive telecommunications services in all its markets, including New York. However, the stumbling blocks Verizon has imposed on OnSite makes it difficult for the company to provide a competitive alternative to incumbent services. The Commission's intervention is necessary in order to establish the necessary environment to promote fair competition in Verizon territory, and we would greatly appreciate the opportunity to meet and discuss these issues with you in greater detail.

Frank Lamancusa, Deputy Chief  
October 12, 2000  
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Thank you for your attention to this matter, and we look forward to your response.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Russell M. Blau". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Russell M. Blau  
Tony S. Lee

Counsel to OnSite Access Local, LLC

cc: Anthony Dale (FCC)  
Leonard G. Kriss, Esq. (OnSite)